



FEDERAL COMMUNICATIONS COMMISSION

47 CFR Part 54

[WC Docket No. 16-271; DA 22-484; FR ID 86428]

Wireless Telecommunications Bureau Seeks Comment on Compliance Gap Drive Testing for Alaska

Plan Participants

AGENCY: Federal Communications Commission.

ACTION: Proposed compliance with Alaska Plan; request for comments.

SUMMARY: The Wireless Telecommunications Bureau requests comment on requiring mobile-provider participants of the Alaska Plan subject to the drive test requirement to submit new drive-test data if they fail to demonstrate compliance with their approved performance plan.

DATES: Comments are due on or before [INSERT DATE 14 DAYS AFTER DATE OF PUBLICATION IN THE FEDERAL REGISTER] and replies are due on or before [INSERT DATE 21 DAYS AFTER DATE OF PUBLICATION IN THE FEDERAL REGISTER].

ADDRESSES: Interested parties may file comments on or before the date indicated above and must reference WC Docket No. 16-271. Comments may be filed using the Commission's Electronic Filing System (ECFS) or by filing paper copies.

- **Electronic Filers:** Comments may be filed electronically using the Internet by accessing the ECFS: <http://apps.fcc.gov/ecfs/>.
- **Paper Filers:** Parties who choose to file by paper must file an original and one copy of each filing.
- Filings can be sent by commercial overnight courier, or by first-class or overnight U.S. Postal Service mail. All filings must be addressed to the Commission's Secretary, Office of the Secretary, Federal Communications Commission.

- Commercial overnight mail (other than U.S. Postal Service Express Mail and Priority Mail) must be sent to 9050 Junction Drive, Annapolis Junction, MD 20701. U.S. Postal Service first-class, Express, and Priority mail must be addressed to 45 L Street, NE, Washington, DC 20554.
- Effective March 19, 2020, and until further notice, the Commission no longer accepts any hand or messenger delivered filings. This is a temporary measure taken to help protect the health and safety of individuals, and to mitigate the transmission of COVID-19.

People with Disabilities: To request materials in accessible formats for people with disabilities (braille, large print, electronic files, audio format), send an e-mail to fcc504@fcc.gov or call the FCC's Consumer and Governmental Affairs Bureau at (202) 418-0530 (voice).

FOR FURTHER INFORMATION CONTACT: For additional information on this proceeding, contact Matthew Warner of the Wireless Telecommunications Bureau, Competition & Infrastructure Policy Division, Matthew.Warner@fcc.gov, (202) 418-2419.

SUPPLEMENTARY INFORMATION: This is a summary of the "Request for Comment" portion of the Bureau's Alaska Plan Drive Test Order and Request for Comment, adopted on May 5, 2022, and released on May 5, 2022. The summary of the Order portion is published elsewhere in this issue of the *Federal Register*. The full text of this document is available for public inspection on the Commission's website at: <https://www.fcc.gov/document/alaska-drive-test-order-and-request-comment>.

I. INTRODUCTION

1. In the Order portion of this document, the Wireless Telecommunications Bureau (Bureau) adopts a drive-test model and parameters for the drive tests that are required of certain mobile providers participating in the Alaska Plan. The Bureau will use these drive-test data to determine whether mobile providers that receive more than \$5 million in annual support for the deployment of mobile voice and broadband service in remote areas of Alaska have met their performance commitments. In the Request for Comment portion of this document, we seek comment on a proposal to require mobile-provider participants subject to the drive-test requirement to submit new drive-test

data consistent with the drive-test model and parameters if they fail to meet a buildout milestone and later seek to cure a compliance gap.

II. REQUEST FOR COMMENT

2. This Request for Comment seeks comment on an approach for mobile providers that receive more than \$5 million annually from the Alaska Plan to address compliance gaps under § 54.320(d)(1) of the Commission's rules. Section 54.320(d)(1) establishes a framework to assess any compliance gaps for Alaska Plan mobile providers' commitments. To ensure that mobile providers receiving more than \$5 million annually for the Alaska Plan have met their interim milestone commitments, the Commission will analyze the drive test data discussed in this Order, in addition to other data, to determine whether they have any compliance gaps and, if so, the extent of the compliance gap per commitment (i.e., which compliance gap tier the mobile provider falls into). We seek comment on requiring these mobile providers to submit new drive-test data if they fail to demonstrate compliance with their approved performance plan by the five-year interim milestone.

3. To the extent that a mobile-provider participant subject to the drive-test requirement is shown through the results of the testing to have failed to meet its five-year performance requirement, and seeks to cure a compliance gap, we propose to require the provider to submit new drive-test data consistent with the Alaska Drive-Test Model we adopt today. Under this proposal, the provider would submit updated coverage data, including middle-mile data if applicable, whenever it seeks to improve its compliance gap tier until it has less than a 5% compliance gap. Commission staff then would provide new grid cells to test based on this updated coverage data. For example, if a provider that had a compliance gap of 30% (and is thus in Tier 3) reports that it reduced its compliance gap to 10%, which would warrant a move to Tier 1, then the provider would submit its updated coverage and middle-mile data to the Commission. Staff would provide the mobile-provider participant new grid cells to test, consistent with the mobile-provider participant's updated coverage data. The mobile-provider participant would need to provide new drive-test data consistent with the Alaska Drive-Test Model as verifying evidence that it has moved compliance tiers. For a mobile-provider participant with multiple

frames (if there is a compliance gap for its fiber-based 4G LTE population, for example), it would need to provide supporting drive-test data for all affected frames. This would ensure that new compliance gaps are not created when other compliance gaps are reduced. We seek comment on this proposal. We also seek comment on whether we should adopt any additional requirements for retesting beyond what is required under the Alaska Drive-Test Model.

A. Digital Equity and Inclusion

4. Finally, as part of the Commission’s continuing effort to advance digital equity for all, including people of color and others who have been historically underserved, marginalized, and adversely affected by persistent poverty and inequality, we invite comment on any equity-related considerations and benefits (if any) that may be associated with the issues discussed herein. Specifically, we seek comment on how these matters may promote or inhibit advances in diversity, equity, inclusion, and accessibility.

III. PROCEDURAL MATTERS

A. Initial Regulatory Flexibility Certification

5. The Regulatory Flexibility Act of 1980, as amended (RFA), requires that an initial regulatory flexibility analysis be prepared for notice-and-comment rule making proceedings, unless the agency certifies that “the rule will not, if promulgated, have a significant economic impact on a substantial number of small entities.” The RFA generally defines the term “small entity” as having the same meaning as the terms “small business,” “small organization,” and “small governmental jurisdiction.” In addition, the term “small business” has the same meaning as the term “small business concern” under the Small Business Act. A “small business concern” is one which: (1) is independently owned and operated; (2) is not dominant in its field of operation; and (3) satisfies any additional criteria established by the Small Business Administration (SBA).

6. This Request for Comment seeks comment on the drive testing proposals required by the Alaska Plan for those wireless participants receiving more than \$5 million in annual Alaska Plan support, excluding the smaller wireless participants that receive less than that in annual support. The

proposals, if adopted, would apply to only two entities, one of which does not qualify as a small entity. Therefore, we certify that the proposals in this Request for Comment, if adopted, will not have a significant economic impact on a substantial number of small entities.

7. The Commission will send a copy of the Request for Comment, including a copy of this Initial Regulatory Flexibility Certification, to the Chief Counsel for Advocacy of the SBA. This initial certification will also be published in the Federal Register.

B. Ex Parte Presentations

8. This proceeding shall be treated as a “permit-but-disclose” proceeding in accordance with the Commission’s ex parte rules. Persons making ex parte presentations must file a copy of any written presentation or a memorandum summarizing any oral presentation within two business days after the presentation (unless a different deadline applicable to the Sunshine period applies). Persons making oral ex parte presentations are reminded that memoranda summarizing the presentation must (1) list all persons attending or otherwise participating in the meeting at which the ex parte presentation was made, and (2) summarize all data presented and arguments made during the presentation. If the presentation consisted in whole or in part of the presentation of data or arguments already reflected in the presenter’s written comments, memoranda or other filings in the proceeding, the presenter may provide citations to such data or arguments in his or her prior comments, memoranda, or other filings (specifying the relevant page and/or paragraph numbers where such data or arguments can be found) in lieu of summarizing them in the memorandum. Documents shown or given to Commission staff during ex parte meetings are deemed to be written ex parte presentations and must be filed consistent with rule 1.1206(b) (47 CFR 1.1206(b)). In proceedings governed by rule 1.49(f) (47 CFR 1.49(f)) or for which the Commission has made available a method of electronic filing, written ex parte presentations and memoranda summarizing oral ex parte presentations, and all attachments thereto, must be filed through the electronic comment filing system available for that proceeding, and must be filed in their native format (e.g., .doc, .xml, .ppt, searchable .pdf). Participants in this proceeding should familiarize themselves with the Commission’s ex parte rules.

C. Filing Requirements

9. Comments. Interested parties may file comments and reply comments on or before the dates indicated on the first page of this document and must reference WC Docket No. 16-271.

Comments may be filed using the Commission's Electronic Filing System (ECFS) or by filing paper copies.

- Electronic Filers: Comments may be filed electronically using the Internet by accessing the ECFS: <http://apps.fcc.gov/ecfs/>.
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 - Effective March 19, 2020, and until further notice, the Commission no longer accepts any hand or messenger delivered filings. This is a temporary measure taken to help protect the health and safety of individuals, and to mitigate the transmission of COVID-19. See FCC Announces Closure of FCC Headquarters Open Window and Change in Hand-Delivery Policy, Public Notice, 35 FCC Rcd 2788 (2020), <https://www.fcc.gov/document/fcc-closes-headquarters-open-window-and-changes-hand-delivery-policy>.

10. People with Disabilities. To request materials in accessible formats for people with disabilities (braille, large print, electronic files, audio format), send an e-mail to fcc504@fcc.gov or call the FCC's Consumer and Governmental Affairs Bureau at (202) 418-0530 (voice).

11. Additional Information. For additional information on this proceeding, contact Matthew Warner of the Wireless Telecommunications Bureau, Competition & Infrastructure Policy Division, Matthew.Warner@fcc.gov, (202) 418-2419.

IV. ORDERING CLAUSES

12. IT IS ORDERED that, pursuant to the authority contained in Sections 1 through 4, 201, 254, 301, 303, 307, 309, 332 of the Communications Act of 1934, as amended, 47 U.S.C. 151 through 154, 201, 254, 301, 303, 307, 309, 332 and Sections 0.91, 0.131, 0.291, 0.311, 54.317, 54.320, and 54.321 of the Commission's rules, 47 CFR 0.91, 0.131, 0.291, 0.311, 54.317, 54.320, and 54.321, and the delegated authority contained in the Alaska Plan Order, 31 FCC Rcd 10139, 10160, 10166 through 67, paras. 67, 85, NOTICE IS HEREBY GIVEN of the proposals described and tentative conclusions in the Request for Comment.

13. IT IS FURTHER ORDERED that the Commission's Consumer and Governmental Affairs Bureau, Reference Information Center, SHALL SEND a copy of this Order and Request for Comment, including the Initial Regulatory Flexibility Certification and the Final Regulatory Flexibility Certification, to the Chief Counsel for Advocacy of the Small Business Administration.

FEDERAL COMMUNICATIONS COMMISSION.

Amy Brett,

Acting Chief of Staff,

Wireless Telecommunications Bureau.

[FR Doc. 2022-10542 Filed: 5/17/2022 8:45 am; Publication Date: 5/18/2022]